

# Intellectual Property Rights

Fiscal Year 2010 Seizure Statistics — Final Report

Published: January 2011





# **Executive Summary**

In Fiscal Year 2010, CBP and ICE continued their commitment to cooperate and expand upon their efforts to seize goods that infringe on intellectual property rights, including trademarks and copyrights. Through joint efforts to target and interdict infringing merchandise, and coordinated joint operations such as Operation Guardian, CBP and ICE have enhanced their intellectual property enforcement capabilities while continuing to facilitate the secure flow of legitimate trade and travel.

- The number of IPR seizures increased by 34% to 19,959 in FY 2010 from 14,841 in FY 2009, yet the Domestic Value decreased 27% from \$260.6 million (M) to \$188.1M due to the following:
  - Increase in the amount of high-volume/low-value express consignment/mail seizures
  - Consolidated shipment seizures
- The average value of an IPR seizure dropped to \$9,425 in FY 2010 from \$17,566 in FY 2009
- The estimated Manufacturer's Suggested Retail Price (MSRP) for all FY 2010 IPR seizures is \$1.4 billion
- There was a dramatic increase in consumer safety and critical technology seizures due to an increased emphasis on enforcement in this area by DHS.
  - In FY 2010, the number of consumer safety and critical technology IPR seizures increased 97% while the value increased by 30% compared to FY 2009 totals
- The number of IPR seizures occurring at express consignment/mail facilities in FY 2010 rose by 42% from last year due to:
  - Continued growth of websites that sell counterfeit and piratical merchandise
  - Consumers seeking lower-priced goods due to the poor economy
  - IPR product identification training and education by right holders
  - Stepped-up enforcement efforts by CBP and ICE

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#### **Disclaimer**

The information contained in this report does not constitute the official trade statistics of the United States. The statistics, and the projections based upon those statistics, are not intended to be used for economic analysis, and are provided for the purpose of establishing DHS priorities and workload.

All stated values refer to Domestic Value unless otherwise specified.

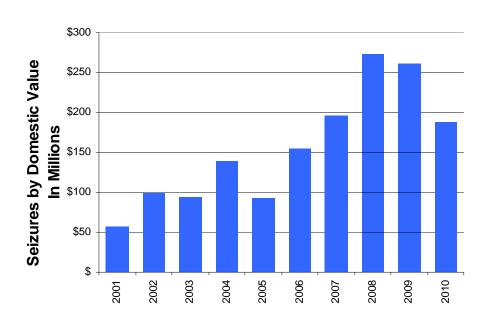
## **IPR Seizure Totals**

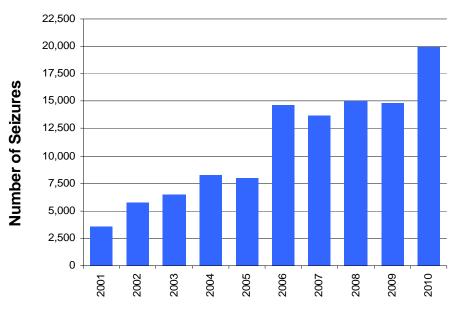
The data for FY 2010 show that the number of seizures increased dramatically, while seizure value dropped by more than \$72 million

Seizure Totals									
	FY 2009	FY 2010							
Number	14,841	19,959							
Domestic Value (in millions)	\$260.6	\$188.1							
MSRP (est. in millions)	\$2,065	\$1,413							

- The average value for an IPR seizure dropped to \$9,425 in FY 2010 from \$17,566 in FY 2009
- There was a 41% increase in the number of low value (under \$1,000)
   IPR seizures in FY 2010 over FY 2009
- A shift in seizures at mail facilities and in the express shipping environment is a main driver for these changes
  - Continued growth of websites that sell counterfeit and piratical merchandise facilitate direct to consumer shipment of infringing goods
  - Training by rights holders and coordination have helped CBP and ICE to step up enforcement efforts in this area

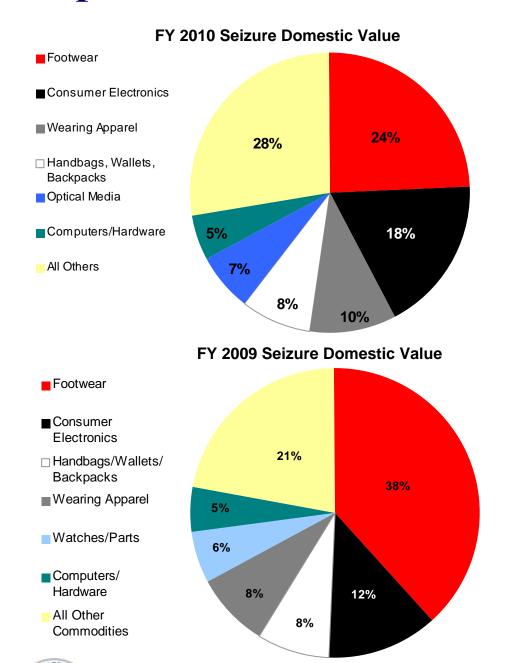
# Ten Year IPR Seizure Comparison





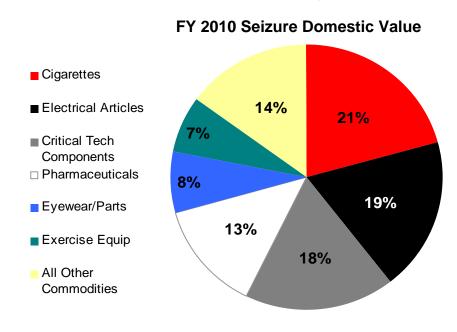
- The number of IPR seizures in FY 2010 has increased by 34% to 19,959 compared to FY 2009 seizures
- However, Domestic Value decreased 27% to \$188.1 million from \$260.6 million in FY 2009
- In the past decade, IPR violations have grown to the extent that the number of IPR seizures has risen over 400%
- The first two months of FY 2010 had more IPR seizures than the entire year in FY 2001

# Top Commodities Seized

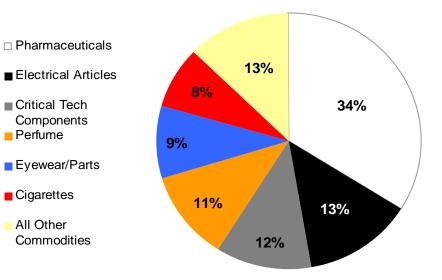


- For the fifth year in a row footwear is the top commodity seized, accounting for more than 24% of the total IPR seizure value
- The quantity of computer hardware seized increased fivefold from FY 2009 to FY 2010
  - This increase included a \$2.3 million ICE seizure, which included counterfeit military-grade semiconductors
- The quantity of optical media discs seized in FY 2010 increased threefold as compared to FY 2009
  - In addition, CBP made 46 seizures of circumvention devices, with a Domestic Value of \$42,181, for violation of the Digital Millennium Copyright Act (DMCA)
- Products designated as consumer safety and critical technologies accounted for 23% of all commodities seized by value

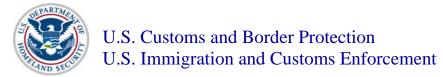
# Consumer Safety and Critical Technologies







- The number of consumer safety and critical technology seizures increased from 10% to 15% of all seizures from FY 2009 to FY 2010
- Counterfeit goods can unknowingly be used in manufacturing, infrastructure, or military applications, or can affect consumers directly when they purchase substandard goods
- Counterfeit cigarettes jumped in value in FY 2010 due to several high valued shipments seized from Jordan
- Counterfeit bearings, a critical element between rotating and stationary components of machinery, is an emerging safety and security issue
- Over \$600,000 in bearings were seized in FY 2010 representing a sevenfold increase in domestic value



# Value Definition: Domestic Value vs MSRP

DHS components use different value standards for reporting. This has created confusion when comparing statistics in this report to press releases and other media reporting of IPR violations.

IPR seizures will have a Domestic Value and a Manufacturer's Suggested Retail Price (MSRP). Both CBP and ICE have legal and procedural reasons for using one over the other, depending on the enforcement or reporting circumstances.

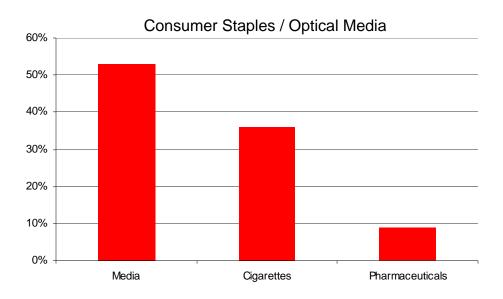
- Domestic Value represents the cost of the merchandise when last purchased, plus all duties, fees, broker's charges, profit, unloading charges, and U.S. freight charges to bring the property to the importer's premises.
- This is often recognized as the approximate price at which the property will be offered for sale at the first commercial level after importation.
- MSRP is recognized as the price at which merchandise is sold at retail to the consumer or what the value of the counterfeit goods would have been at retail had they been genuine.
- MSRP on seizures is used by ICE and US Attorneys to determine prosecution thresholds and by the Courts to determine sentencing. MSRP is also used by CBP in assessing certain types of penalties.

CBP estimated the MSRP of FY 2009 and 2010 IPR seizures based on broad categories of products seized. As of FY 2011, CBP will determine MSRP for individual seizures for greater precision.

This should provide a more comprehensive picture of seizure statistics, and the full impact of IPR violations detected by DHS.

## Domestic Value vs MSRP



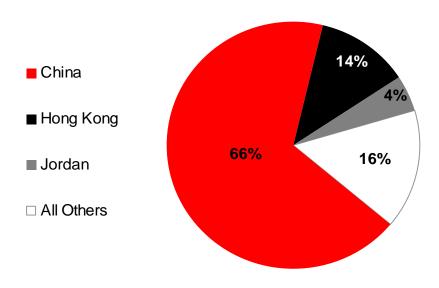


- Luxury goods reflect the largest value markup from Domestic Value to Manufacturer's Suggested Retail Price (MSRP)
- The markup in value from domestic to MSRP for luxury goods ranges from 300% to over 3,000%
- This represents the dramatic profit for counterfeiters in the luxury goods marketplace that includes handbags, watches, wearing apparel and jewelry
- Consumer staples and optical media reflect a much lower percentage markup ranging from 9% to just over 50%
  - Because of the close pricing differential with legitimate goods, consumers may be unaware of the potential for counterfeiting, or that they are buying a counterfeit product

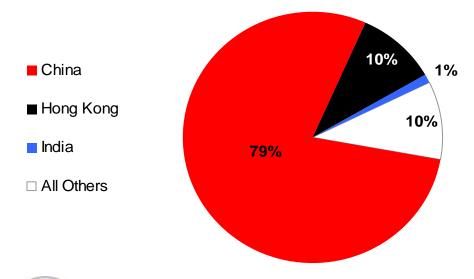


# **Source Countries**

#### **FY 2010 Seizure Domestic Value**



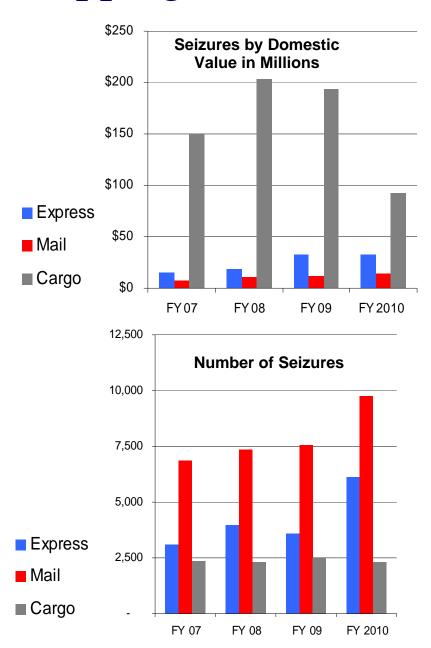
#### FY 2009 Seizure Domestic Value



U.S. Customs and Border Protection
U.S. Immigration and Customs Enforcement

- Seizures of IPR infringing products from China totaled \$124.6 million, down 39% from FY 2009
- The reduction in IPR seizure value from China is mostly due to a decline in footwear seizures during FY 2010
- Despite this decline in value, China continues to be the top source country for IPR violations as it has been for the last 10 years, accounting for 66% of all IPR seizure value for FY 2010
- The number of IPR seizures from China increased by 18%, to 12,200, accounting for 61% of all IPR seizures
- Much of this increase in volume is taking place in the international mail and express shipment environments
- Jordan accounted for the third highest Domestic Value in FY 2010, due to several high-value seizures of cigarettes
- The majority of other countries had less than \$1 million in IPR seizures, with the exception of India, with \$1.5 million, most of which was pharmaceuticals

# **Shipping Environments**



- Infringing goods come into the country a variety of ways, including mail, express packages, and larger cargo shipments by ship, air, rail, and truck
- The trend in shipping patterns for infringing merchandise has been a marked shift to international mail and express packages, characterized by high volume but low value shipments
- Despite this increase, analysis indicates that the bulk of mail and express shipments are still commercial in nature
- Factors contributing to the increase in mail/express seizures:
  - Continued growth of websites that sell counterfeit and piratical merchandise
  - Stepped-up enforcement efforts by CBP and ICE in the area of mail and express packages
  - Continued Brand and Rights Holder product identification training for CBP and ICE



Table 1: FY 2001 - FY 2010 Comparisons

Domestic Value of IPR

Number of IPR Seizures

Fiscal Year	Total Value	Fiscal Year	Number of Seizures
2001 \$	57,438,680	2001	3,586
2002 \$	98.990.341	2002	5,793
2003 \$	94,019,227	2003	6,500
2004 \$	138,767,885	2004	7,255
2005 \$	93,234,510	2005	8,022
2006 \$	155,369,236	2006	14,675
2007 \$	196,754,377	2007	13,657
2008 \$	272,728,879	2008	14,992
2009 \$	260,697,937	2009	14,841
φ	188,125,346	2010	19,959
2010 \$ <b>Total</b> \$	1,556,126,418	Total	109,280

Table 2: FY 2007 - FY 2010 Shipping Environment

Domestic Value of IPR Seizures (in millions)

Number of IPR Seizures

Fiscal						Fiscal					
Year	Express	Mail	Cargo	Other	Total	<u>Year</u>	Express	Mail	Cargo	Other	Total
2007	\$ 15.2 \$		\$ 150.1	\$ 23.3 g		2007	3,148	6,881	2,494	1,134	13,657
2008	\$ 18.9 \$		\$ 202.9		·	2008	3,965	7,341	2,289	1,397	14,992
2009	\$ 32.5 \$		т	Ψ ų	·	2009	3,574	7,569	2,519	1,179	14,841
2010	\$ 32.3 \$		T	T 1	·	2010	6,116	9,743	2,309	1,791	19,959
	φ σ=σ φ		ψ	φ 4	<sup>1</sup> 188.1						

In any given year, approximately 10% of all seizures cannot be categorized as express, mail, or cargo. These other seizures represent ICE investigations, exports, passenger carry on items, or other enforcement situations.

All stated values refer to Domestic Value unless otherwise specified.

Table 3: FY 2009 - FY 2010 All Commodities

FY 2009 Commodity		Domestic	Percent of Total	FY10 Commodity		Domestic	Percent of Total
Footwear	\$	99,779,263	38%	Footwear	\$	45,749,639	24%
Consumer Electronics Handbags/Wallets/Backpacks Wearing Apparel Watches/Parts Computers/Hardware Optical Media Pharmaceuticals Jewelry	s s s s s s s s	31,773,625 21,501,614 21,462,276 15,533,922 12,546,098 11,099,758 11,057,991 10,499,243	12% 8% 8% 6% 5% 4% 4%	Consumer Electronics Wearing Apparel Handbags/Wallets/Backpacks Optical Media Computers/Hardware Cigarettes Watches/Parts Jewelry Pharmaceuticals	* * * * * * * * *	33,588,493 18,681,725 15,422,201 12,681,213 9,501,871 8,851,376 7,847,865 6,761,698	18% 10% 8% 7% 5% 5% 4% 4% 3%
Toys/Electronic Games All Other Commodities  Total FY 09 Domestic Value Number of Seizures	\$ \$ <b>\$</b>	5 <sub>1</sub> 5,931,43 260,697,937 14,841	2% 8%	All Other Commodities  Total FY 10 Domestic Value Number of Seizures	\$ <b>\$</b>	5,662,334 23,376,931 188,125,346 19,959	_ 12%

FY 2009 Commodity	Number of Seizures	Percent of Total	FY 2010 Commodity	Number of Seizures	Percent of Total
Wearing Apparel	3,410	19%	Wearing Apparel	4,338	18%
Optical Media	2,476	14%	Optical Media	4,371	18%
Consumer Electronics	2,387	13%	Handbags/Wallets/Backpacks	2,702	11%
Handbags/Wallets/Backpacks	2,086	12%	Consumer Electronics	2,252	9%
Footwear	1,448	8%	Footwear	2,119	9%
Computers/Hardware	832	5%	Computers/Hardware	857	4%
Watches/Parts	755	4%	Watches/Parts	819	3%
Jewelry	599	3%	Golf Equipment	786	3%
Golf Equipment	519	3%	Headwear	772	3%
Eyewear/Parts	493	3%	Exercise Equipment	594	2%
All Other Commodities	2,974	17%	All Other Commodities	4,351	18%
Number of Seizures	17,979*		Number of Seizures	23,961*	1070

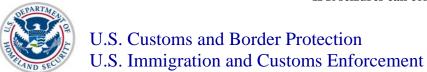


Table 4: FY 2009 - FY 2010 Consumer Safety and Critical Technologies

FY 2009		Domestic	Percent	FY 2010	Domestic	Percent
Safety and Security		Value	of Total	Safety and Security	Value	of Total
Pharmaceuticals	\$	11,026,260	34%	Cigarettes	\$ 8,851,376	21%
Electrical Articles	\$	4,317,499	13%	Electrical Articles	\$ 7,932,752	19%
Critical Technology Componen	ts s	3,756,638	12%	Critical Technology Components	\$ 7,508,978	18%
Perfume	\$	3,709,303	11%	Pharmaceuticals	\$ 5,616,394	13%
Sunglasses	\$	2,924,812	9%	Eyewear/Parts†	\$ 3,242,372	8%
Cigarettes	\$	2,578,415	8%	Exercise Equipment	\$ 2,867,382	7%
Batteries	Φ	1,850,463	6%	Health/Personal Care	\$ 1,667,075	4%
Exercise Equipment	Φ	833,724	3%	Perfume	\$ 1,653,629	4%
Health/Personal Care	Ф	819,167	3%	Batteries	\$ 1,026,075	2%
	\$	,		Bearings	\$ 636,386	2%
All Other Commodities	<u> </u>	615,516	2%	All Other Commodities	\$ 1,404,093	3%
Total FY 09 Domestic Value Number of Seizures	\$	32,431,797 1,543		Total FY 10 Domestic Value Number of Seizures	\$ 42,406,512 3052	

FY 2009 Safety and Security	Number of Seizures	Percent of Total	FY 2010 Safety and Security	Number of Seizures	Percent of Total
Eyewear/Parts Critical Technology Components Pharmaceuticals Health/Personal Care Batteries Electrical Articles Perfume Exercise Equipment Packaging Toys All Other Commodities Number of Seizures	485 408 181 128 102 98 64 26 19 16 55	31% 26% 11% 8% 6% 6% 4% 2% 1% 1%	Critical Technology Components Eyewear/Parts† Health/Personal Care Pharmaceuticals Exercise Equipment Electrical Articles Batteries Cigarettes Perfume Toys All Other Commodities Number of Seizures	617 594 543 433 212 169 166 136 108 20 95	20% 19% 18% 14% 7% 5% 5% 4% 3% Less than 1%
	1,302			3,093 *	

Critical Technology Components - networking equipment and semiconductor devices Electrical Articles - holiday lights, household appliances, power cords, etc. Health/Personal Care - make-up, razors, toothpaste, etc. All Other - laundry detergent, food products, etc.

† Previously designated as Sunglasses in FY 2009



Table 5: FY 2009 - FY 2010 Source Country Domestic Value and Volume

FY 2009	Domestic	Percent	FY10			Percent
Source Country	Value	of Total	Source Country	D	omestic Value	of Total
China Hong Kong India Taiwan Korea Paraguay Philippines Switzerland Pakistan	\$ 204,656,093 \$ 26,887,408 \$ 3,047,311 \$ 2,453,914 \$ 1,510,443 \$ 1,496,043 \$ 1,479,958 \$ 1,277,646	79% 10% 1% Less than 1%	China Hong Kong Jordan India Malaysia Taiwan Korea Vietnam Canada	\$ \$ \$ \$ \$ \$ \$ \$ \$ \$	124,681,247 26,173,057 7,713,398 1,571,142 1,286,373 1,138,414 1,049,466 741,974 608,533	66% 14% 4% Less than 1%
Vietnam All Others Total FY 09 Domestic Value Number of Seizures	\$ 710,658 \$ 160,874,934 \$ 260,697,937 14,841	Less than 1% Less than 1% 6%	United Arab Emirates All Other Countries  Total FY 10 Domestic Value Number of Seizures	\$ \$	493,931 22,667,811 188,125,346 19,959	Less than 1% 2%

FY 2009 Source Country	Number of Seizures	Percent of Total	FY 2010 Source Country	Number of Seizures	Percent of Total
China	10,288	69%	China	12,200	61%
Hong Kong	,	11%	Hong Kong	,	21%
India	1,680 279	2%	Turkey	4,150	5%
All Others	219	18%	All Other Countries	935	14%
Number of Seizures	<sup>2</sup> 14,980	_	Number of Seizures	2,786 <b>20,071</b>	_

## **Table 6: FY 2010 Top Five Source Countries by Commodity Value**

1. China		Domestic Value	Percent of Total	3. Jordan		Domestic Value	Percent of Total
Footwear Consumer Electronics Wearing Apparel	\$	42,791,023 21,979,054	34% 18% 11%	Cigarettes Wearing Apparel	\$ \$	7,689,4998	99.60% Less than 1%
Wearing Apparel Handbags/Wallets/Backpacks Optical Media Computers/Hardware Toys/Electronic Games Jewelry	\$ \$ \$ \$ \$ \$ \$	14,042,799 9,195,128 5,876,688 4,207,771 3,727,956	7% 5% 3% 3% 2%	Total FY 10 Domestic Value Number of Seizures	\$	7,713,398	
Exercise Equipment	\$	3,104,750 2,698,386	2%	4 lostia		Domestic	Percent
Eyewear/Parts All Other Commodities	\$ <u>\$</u>	2,565,088 14,492,604	2% 12%	4. India Pharmaceuticals Cigarettes	\$ \$	<b>Value</b> 1,345,749 119,205	of Total 86% 8%
Total FY 10 Domestic Value Number of Seizures	\$	124,681,247 12,200		Optical Media Wearing Apparel	\$ \$ \$	68,945 27,094 10,149	4% 2% Less than 1%
2. Hong Kong		Domestic Value	Percent of Total	Total FY 10 Domestic Value Number of Seizures	\$	1,57,1142	
Consumer Electronics Watches/Parts Handbags/Wallets/Backpacks	\$ \$ \$	6,951,059 4,677,994	27% 18% 16%	5. Malaysia		Domestic Value	Percent of Total
Jewelry Optical Media Pharmaceuticals Wearing Apparel	\$ \$ \$ \$	4,229,502 3,359,637 1,984,258 1,178,618	13% 8% 5% 4%	Footwear Computers/Hardware All Other Commodities	\$ \$ \$	1,183,544 100,473 2,356	92% 8% Less than 1%
Computers/Hardware Belts	\$ \$	1,164,132 616,605 290,315	2% 1% Less than	Total FY 10 Domestic Value Number of Seizures	\$	1,286,373 42	
Health/Personal Care All Other Commodities	\$ \$	245,989 1,474,948	1% - 6%				
Total FY 10 Domestic Value	\$	26 172 057					



Table 7: FY 2010 Top Three Source Countries by Number of Seizures

	Number	Percent
1. China	of Seizures	of Total
Optical Media	2,664	19%
Wearing Apparel	2,612	18%
Handbags/Wallets/Backpacks	1,458	10%
Consumer Electronics	1,258	9%
Footwear	913	6%
Golf Equipment	749	5%
Computers/Hardware	572	4%
Headwear	564	4%
Health/Personal Care	460	3%
Eyewear/Parts	415	3%
All Other Commodities	2,636	18%
Number of Seizures	14,301*	

	Number	Percent
2. Hong Kong	of Seizures	of Total
Optical Media	1,225	26%
Consumer Electronics	801	17%
Wearing Apparel	696	15%
Handbags/Wallets/Backpacks	635	13%
Footwear	218	5%
Computers/Hardware	171	4%
Jewelry	153	3%
Watches/Parts	141	3%
Identifying Elements	78	2%
Headwear	73	2%
All Other Commodities	539	11%
Number of Seizures	4,730*	

	Number	Percent of Total		
3. Turkey	of Seizures			
Footwear	737	78%		
Wearing Apparel	180	19%		
All Other Commodities	30	3%		
Number of Seizures	947*			

\*IPR seizures can contain multiple commodities

**Table 8: FY 2010 Estimated MSRP Value by Commodity** 

FY10 Commodity		Domestic Value		Estimated MSRP	Percent Markup
Footwear Consumer Electronics Wearing Apparel Handbags/Wallets/Backpacks Optical Media Computers/Hardware Cigarettes Watches/Parts Jewelry Pharmaceuticals All Other Commodities	****	45,749,639 33,588,493 18,681,725 15,422,201 12,681,213 9,501,871 8,851,376 7,847,865 6,761,698 526,376,931	\$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$	183,577,213 87,47,905,971 537,309,551 19,405,410 33,874,319 128,62,08,392 48,422,129 6149,303 155,956,257	301% 161% 691% 3384% 53% 257% 36% 2208% 616% 9% 567%
Total FY 10 Number of Seizures		88,125,346 ,959	\$	1,413,480,374	

Table 9: FY 2010 Estimated MSRP Value by Commodity Commercial vs. Non-Commercial Seizures

FY10 Commodity	Commercial Domestic Value			Commercial Est. MSRP		Non-Commercial Domestic Value		Non-Commercial Est. MSRP	
Footwear Consumer Electronics Wearing Apparel Handbags/Wallets/Backpacks Optical Media Computers/Hardware Cigarettes Watches/Parts Jewelry Pharmaceuticals	\$\$\$\$\$\$\$\$\$\$\$	45,677,589 33,566,306 18,677,838 15,419,485 12,636,379 9,500,869 8,836,989 7,834,529 6,761,640 5,646,057	\$ \$	183,288,102 87,752,939 147,775,117 537,214,925 19,336,803 33,870,747 12,043,380 180,798,635 48,421,714 6,131,627	\$\$\$\$\$\$\$\$\$	72,050 22,187 3,887 2,716 44,834 1,002 14,387 13,336 58	\$ \$ \$ \$ \$ \$ \$	289,111 58,004 30,753 94,625 68,607 3,572 19,607 307,757 415	
All Other Commodities  Total FY 10  Number of Commercial Seizures Number of Non-Commercial Seizures Total	\$ \$	23,346,412 187,904,093 18,544 1,415 19,959	\$	155,752,653 1,412,386,641	\$	30,519 221,253	\$	17,677 203,604 1,093,733	

Table 10: FY 2010 Estimated MSRP Value by Shipping Environment Commercial vs. Non-Commercial Seizures

FY10	Commercial	Commercial	Non-Commercial	Non-Commercial	Number of	Percent
Shipping Environment	<b>Domestic Value</b>	Est. MSRP	<b>Domestic Value</b>	Est. MSRP	Seizures	of Total
Express	\$32,232,248	\$242,177,096	\$89,534	\$672,714	6,116	31%
Mail	\$13,927,610	\$104,645,141	\$111,618	\$838,642	9,743	49%
Cargo	\$103,332,109	\$776,386,123	\$15,447	\$116,061	2,309	12%
Other	\$38,412,126	\$288,609,629	\$4,654	\$34,968	1,791	9%
Total FY 10	\$187,904,093	\$1,411,817,989	\$221,253	\$1,662,385	19,959	100%

In any given year, approximately 10% of all seizures cannot be categorized as express, mail, or cargo. These other seizures represent goods seized during ICE investigations, exports, passenger carry on items, or other enforcement situations.





U.S. Customs and Border Protection

U.S. Immigration and Customs Enforcement